

**134.128 Process for sale of certificate of delinquency by clerks to persons not listed in KRS 134.127(1)(a). (Effective January 1, 2010)**

- (1) The sale of certificates of delinquency by county clerks to persons other than those listed in KRS 134.127(1)(a) shall be conducted in accordance with the provisions of this section.
- (2) The department shall promulgate administrative regulations to establish a process for the purchase and sale of certificates of delinquency to third parties. The process developed by the department shall:
  - (a) Establish an annual statewide schedule for the sale of certificates of delinquency in each county. The schedule shall be published on the department's Web site at least ten (10) days prior to the first sale. The sale in each county shall be administered by the county clerk and shall be scheduled at least ninety (90) days but not more than one hundred thirty-five (135) days after the unpaid tax claims are filed by the sheriff with the county clerk. The department may stagger the schedule so that sales are conducted on different dates and times in different counties;
  - (b) Except as provided in KRS 134.127(1)(a), prohibit the payment of any newly filed certificates of delinquency by a third party prior to the scheduled annual sale of certificates of delinquency for that year for that county;
  - (c) Prohibit the payment of any certificates of delinquency known to be involved in litigation or for which a payment plan has been agreed to by the taxpayer and the county attorney or the department, and on which the payment agreement is in good standing;
  - (d) Establish a process to be used by county clerks in determining the order in which interested third-party purchasers may select and pay available certificates of delinquency. The process shall, at a minimum:
    1. Be uniform in all counties to the extent practicable;
    2. Establish a process, if there is more than one (1) purchaser registered to purchase certificates of delinquency at the sale, that allows all interested purchasers an opportunity to purchase certificates of delinquency on an equitable basis. The sale shall not be structured in such a manner to allow one (1) third party to purchase all of the certificates of delinquency if there are other properly registered third parties that are also interested in purchasing certificates of delinquency;
    3. Establish fairness for all participants by prohibiting the participation of multiple related entities, or multiple individuals representing related interests as separate entities in the selection process. The department shall define "related entities" and "related interests" as part of the regulatory process; and
    4. Allow any person holding a certificate of delinquency from a prior year to pay a certificate of delinquency on the same property for the current year. If more than one (1) third party holds an outstanding certificate of

delinquency on a parcel of property, the person holding a certificate of delinquency from the most recent tax year shall be given preference;

- (e) Require all potential participants in the sale to register at least one (1) week in advance with the county clerk;
  - (f) Require a review of the list of registered participants, either by the county clerk or the department, prior to the sale to ensure that:
    - 1. All registered participants seeking to pay multiple certificates of delinquency are properly registered with the department as required by KRS 134.129; and
    - 2. No registered participants or related entities or related interests prohibited from separate participation in the sale pursuant to the provisions of paragraph (d)3. of this subsection and the administrative regulations promulgated thereunder;
  - (g) Establish advance deposit requirements for registered participants based upon the maximum amount the registered participant may pay for desired certificates of delinquency;
  - (h) Establish a registration fee to be paid to the clerk upon registration for a sale. The registration fee paid to each county shall not exceed two hundred fifty dollars (\$250) and may be tiered;
  - (i) Establish payment requirements, which may include nullification of the payment and forfeiture of the advance deposit if a third-party purchaser fails to produce full payment within the specified time; and
  - (j) Establish payment methods.
- (3) Any person who, in any calendar year:
- (a) Pays or plans to pay five (5) or more certificates of delinquency statewide;
  - (b) Pays or plans to pay three (3) or more certificates of delinquency in any county; or
  - (c) Invests or plans to invest more than ten thousand dollars (\$10,000) in the payment of certificates of delinquency on a statewide basis in any calendar year;
- shall register with the department annually as provided in KRS 134.129.
- (4) The department shall be responsible for monitoring the sale of certificates of delinquency.
  - (5)
    - (a) At least thirty (30) but not more than forty-five (45) days before the scheduled sale date, the county clerk shall cause a notice to be published in accordance with the provisions of KRS Chapter 424. The notice shall list by property owner, property address, and if available, parcel number or lot number, all certificates of delinquency available for sale. The notice shall provide the date, time, and location of the sale.
    - (b) As compensation for advertising the sale, the county clerk shall receive five dollars (\$5) for each certificate of delinquency advertised. The fee shall be

added to the amount of the certificate of delinquency and shall be paid by the person paying the certificate of delinquency.

- (c) The cost of placing the advertisement shall be paid by the county. The cost shall be added to the amount of the certificate of delinquency and shall be paid by the person paying the certificate of delinquency. The department shall establish a formula that may be used by counties in allocating the advertising costs among the delinquent tax claims. The formula shall take into account that a percentage of delinquent tax claims remains unpaid.
- (6) Any certificate of delinquency not paid at the annual sale, not subject to a payment plan with the department or county attorney, not known to be in litigation, and not related to unmined coal, oil, and gas reserves may be paid to the county clerk at any time by any person after the sale, provided that any person required by KRS 134.129 to register with the department shall hold a current certificate of registration at the time of purchase.

**Effective:** January 1, 2010

**History:** Created 2009 Ky. Acts ch. 10, sec. 10, effective January 1, 2010.

**Legislative Research Commission Note** (1/1/2010). A reference to "paragraph (d)2." in subsection (2)(f)2. of this statute has been changed in codification to "paragraph (d)3." to correct a manifest oversight during the amendment process. House Committee Amendment 2 to House Bill 262, which became 2009 Ky. Acts ch. 10, inserted a new subparagraph 2. in subsection (2)(d) of this statute and renumbered the subsequent subparagraphs, but did not make the conforming change to the reference in subsection (2)(f)2. This manifest clerical or typographical error has been corrected by the Reviser of Statutes under the authority of KRS 7.136(1).